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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION N |
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| 09/902,901 | 07/10/2001 | Nicholas Luke Bennett | 3232 FBR | 9644 |
| 26304 | 7590 | 10/21/2004 | EXAMINER | |
| KATTEN MUCHIN ZAVIS ROSENMAN | | | ASHBURN, STEVEN L | |
| 575 MADISON AVENUE | | | ART UNIT | PAPER NUMBER |
| NEW YORK, NY 10022-2585 | | | 3714 | 13 |

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/902,901

Applicant(s)

BENNETT ET AL.

Examiner

Steven Ashburn

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20, 34-40, 42-53 and 55-61 is/are rejected.
- 7) ☒ Claim(s) 21-33, 41 and 54 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

The present application is a continuation-in-part of copending U.S. application number 09/856,869. All features of the present application supported by the '869 application's disclosure share the '869 application's effective filing date. In this case, the '869 application is a national stage filing of PCT/AU99/01047. Thus, the effective filing date is the international filing date: November 24, 1999. See 35 U.S.C. 363.

Drawings

The drawings were received on September 24, 2003. These drawings are acceptable.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 36-55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 36 recites the limitation "base game" in reference to claim 1. There is insufficient antecedent basis for this limitation in the claim. Claim 1 describes two "sub-games" that are played simultaneously as part of a game. In the art of gaming, a "base game" is typically a game that leads to a subsequent game upon the occurrence of some event. No such game is described in claim 1. Hence, claim 36 fails to distinctly claim the subject matter which the applicant regards as his invention. For the purposes of examination, the examiner interprets the term "base game" to mean the game of claim 1 that is comprised of both sub-games. Claims 37-55 inherit the deficiency of claim 36.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 12-18, 26-28, 34-40, 42, 45-47, 49-52, 55 and 61 are rejected under 35 U.S.C. 102(b) as being anticipated by Ugawa, U.S. 5,836,819 (Nov. 17, 1998).

Ugawa discloses a hybrid game device offering a slot-type game and a pachinko type game wherein the prizes from each game are combined to produce an award. The particular features of the listed claims are discussed below.

Claim. 1. Ugawa discloses an electronic gaming console having credit means, reward means, game control means, display means, and player input controls, the control means being responsive to the credit means and the player input controls to play a game which is displayed on the display means and if a winning event occurs, a player reward is awarded by the reward means, the gaming console being characterized in that the game provides a video display, for displaying a game image of a hybrid game comprising two different sub-games played simultaneously wherein:

a first sub-game providing a game image displayed on the video display, the game image comprising one or more rotatable reels of a spinning reel game;

a second sub-game providing a game image displayed on the video display, the game image comprising a labyrinth of pins or pins and holes of pin and ball game;

Art Unit: 3714

player input controls allowing the player to initiate the motion of the one or more rotatable reels of the first sub-game and one or more ball images on the display of the second sub-game; player rewards being awarded when the reel and ball images come to rest in predetermined prize winning locations;

the spinning reel and pin and ball sub-games each potentially contributing to a single game outcome which depends on outcomes of each of the sub-games and player rewards as a result of the combined game outcome are awarded as a result of events in the sub-games or combination of those events; game outcomes that result in a player award comprises a combination of a first event in the first sub-game and a second event in a second sub-game. *See fig. 1-3, 55B; col. 33:62-34:12.*

Claim 2. Prize winning outcomes are determined by an outcome of the spinning reel game and may be modified by a ball arriving at a bonus position of the pin and ball game. *See id.*

Claim 5. A spinning reel game comprises a plurality of reels each carrying a plurality of symbols located sequentially around its circumference, such that when the reels spin and stops a result is defined by a outcome line of symbols formed by one symbol from each reel which is in a predetermined stopping position of the respective reel, prize winning combinations of symbols being predefined and a prize being awarded if one of the prize winning combinations occurs on the outcome line. *See fig. 2(38a-c), 55A(S47-S50), 55C(S64-S67).*

Claim 12. The gaming console as claimed in claim 1, wherein the prizes provided in the game have values which are a function of the number of credits bet. *See fig. 55C(S65-67).*

Claim 13. If a ball arrives in a predetermined location the outcome of the spinning reel game is modified by modifying the prize associated with the outcome combination. *See fig. 55B(S58).*

Claim 14. Prize is modified by multiplying it by a predetermined multiplier. *See id.*

Claim 15. The game image comprising one or more targets in a game field and the player input controls allow the player to initiate the motion of one or more ball images on the display, player rewards being awarded when the ball images come to rest in or pass through predetermined prize winning target positions. *See fig. 1-3.*

Claim 16. Holes are positioned behind each of the targets to allow a ball to pass through a target, such that the target remains empty to receive further balls during a game. *See fig. 2(30-34); col.11:46-12:3, 18:16-38.*

Claim 17. Additional pins and/or holes are scattered around the field in addition to those associated with targets. *See fig. 2.*

Claim 18. Prize zones each offering at least one bonus feature or prize. *See fig. 2(30-34); col.11:46-12:3, 18:16-38.*

Claim 26. Targets move during the game. *See fig. 2(30); col. 11:64-12:3.*

Claim 27. Ugawa discloses target embodied as “tulip” which periodically opens and closes. *See id.* As claimed, a railway skip car that periodically appears is functionally equivalent to the tulip.

Art Unit: 3714

Claim 28. Prize values associated with targets change during a game depending on the status of other targets and events. *See col. 11:35-63*

Claim 34. If the ball arrives in a predetermined position the outcome of the spinning reel game is modified by awarding a further prize in addition to the prize associated with the outcome combination. *See fig. 2(38a-c), 55A(S47-S50), 55C(S64-S67).*

Claim 35. The outcome of the spinning reel game is modified by awarding a bonus game if the ball arrives in a predetermined position, and if the bonus game achieves a prize winning result, a bonus prize is awarded which is determined by the result of the bonus game in addition to the prize associated with the outcome combination. *See fig. 1-3, 55B; col. 33:62-34:12.*

Claim 36. A further type of game is incorporated into the base game. *See fig. 1-3.* The base game device incorporates two games: a slot game and a pachinko game.

Claim 37. The further game is provided as a feature game associated with the base game. *See id.* The slot game and pachinko games constitute "feature" games.

Claim 38. The feature game is a second screen animation. *See id.* The slot game is an animation in a second screen from the pachinko game.

Claim 39. The feature game is a wheel game. *See id.* Slot reels are wheel games.

Claim 40. The feature game is awarded from the base game in response to a predetermined trigger. *See fig. 55A*. The slot game and pachinko games are awarded to the player in response to the trigger of inserting coins into the device. *See col. 17:17-34*.

Claim 42. The feature game is a spinning reel game. *See fig. 2(38a-c)*.

Claim 45. The feature game is a card game. *See id.* The spinning reels display playing card indicia.

Claim 46. The feature game triggers another base game feature. *See fig. 2*. The pachinko game triggers the card game feature. *See fig. 28A, 28B*.

Claim 47. The feature game is played in conjunction with the base game. *See fig. 2*. The slot game and pachinko games are played in conjunction with the overlying base game.

Claim 49. The feature game is an independent game and where a predetermined trigger condition or award causes the feature game to run, and if a winning condition is achieved in the feature game, the feature game reveals a bonus condition. *See fig. 1-2, 55B; col. 33:62-34:12*. The slot game and pachinko games are independent. The slot game is triggered of inserting coins into the device. *See col. 17:17-34*. If a winning condition is achieved in the slot game and the pachinko game, the game feature reveals a bonus condition. *See fig. 28A, 28B*.

Claim 50. The bonus condition is an award of a prize. *See fig. 28A, 28B*.

Art Unit: 3714

Claim 51. The bonus condition is a win multiplier which multiplies a prize already won. *See fig. 55B(S58, S63).*

Claim 52. The bonus condition is a number of free games. Ugawa discloses dispensing coins as awards. Games played from a player's awards are effectively "free".

Claim 55. The trigger condition to run the feature game is achieved by the collection of one or more balls in a predetermined container. *See col. 11:35-64.*

Claim 61. The game is played with a single ball. *See fig. 55A(S41-S45).*

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ugawa in view of Pierce et al., U.S. 6,139,013 (Oct. 31, 2000).

Claims 3 and 4. Ugawa discloses a pachinko game in which a slot display stops spinning after balls reach their bonus positions. *See col. 3:54-65.* It does not describe the claimed feature of stopping the reels before the pachinko ball enter the labyrinth. Regardless, Pierce discloses an analogous gaming device in which reels are stopped before a ball is released into the pachinko labyrinth. *See fig 5.* Thus, it is known in the art to vary the timing of a combination slot/pachinko game such that reels may be stopped before or after a ball entering into a pachinko labyrinth. In view of Pierce, it would have been obvious to

Art Unit: 3714

an artisan at the time of the invention to rearrange the steps of Ugawa to stop the reels before the pachinko ball enter the labyrinth and thereby enhance the excitement of the pachinko game outcome. As taught by Ugawa, the game is enhanced by elevating the expectation of gain with the entry of a flipped ball into a winning hole. *See col. 6:4-7.*

Claim 48. Piece discloses a spinning reel game that is played in conjunction with the base game such that reels spin and then balls drop in accordance with the outcome of the spinning reels, for every game played. *See fig. 5.*

Claims 6-8, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ugawa in view of Sines et al., 6,2309,009 B1 (Mar. 20, 2001).

Claim 6. Ugawa does not disclose a substitution location such that a symbol is substituted for a symbol in the outcome line of the spinning reel game if a ball comes to rest at the substitution location. Regardless, Sines discloses a similar pachinko game in which symbols are substituted into a outcome line of a spinning reel game if a ball comes to rest in a substitution location. *See fig 1; col. 2:36-3:6.* In view of Sines, it would have been obvious to an artisan at the time of the invention to modify the game device disclosed by Ugawa, wherein a slot and pachinko game are played together, to add the feature of substitution location such that a symbol is substituted for a symbol in the outcome line of the spinning reel game if a ball comes to rest at the substitution location. As taught by Sines, the modification would enhance the game device by increasing players' anticipation of the outcome as they watch the balls drop to define their payline and thereby make the device more attractive to potential players. *See col. 3:25-36.*

Claims 7 and 8. Sines disclose games wherein the symbol substituted on the outcome line will cause a prize to be awarded if symbols displayed on the outcome line of the spinning reel game and the

Art Unit: 3714

substituted symbol are of the same kind. *See id.* If symbols are substituted, then the symbols displayed on the outcome line of the spinning reel game and the substituted symbol will be the same kind.

Claim 10. Ugawa discloses prizes awarded as redeemable credits. *See fig. 54B.* Ugawa discloses dispensing coins as awards. Coins are redeemable credits.

Claim 11. Ugawa discloses prizes awarded as free games. Ugawa discloses dispensing coins as awards. Games played from a player's awards are effectively "free".

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ugawa in view of Sines, as applied to claim 6-8 above, in further view of Lynch et al., GB 2,243,236 A (Oct. 23 1991).

Claim 9. The device suggested by Ugawa in view of Sines does not disclose a substituted symbol will only modifying the outcome of the spinning reel game if the two symbols of a kind match the predetermined symbol. Lynch discloses an analogous gaming device in which symbols generated in a first game are substituted for symbols in a second game to assist in generating winning outcomes in the second game. *See fig. 1; pp. 5, .* In particular, symbols generated in the first game are only substituted in the second game if the substitution would produce a winning outcome in the second game. *See id.* In second game having three symbols, substitution would occur when two symbols of a kind match in the second game match a first, predetermined game symbol. In view of Lynch, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device suggested by Ugawa in view of Sines, wherein symbols from a first game are substituted into a second game to form predetermined winning combinations, to add the feature of a substituted symbol will only modifying the outcome of the spinning reel game if the two symbols of a kind match the predetermined symbol. As

Art Unit: 3714

taught by Lynch, the modification would enhance the device by automatically performing substitutions only when winning combinations exist. *See id.* As a result, the improved machine would be more attractive to potential players. *See p. 1:23-2:13.*

Claims 19 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ugawa in view of Peters, U.S. 4,508,343 (Apr. 2, 1985).

Claim 19. Ugawa does not disclose varying the number and position of the prize zones is from game to game. Regardless, Peters discloses an analogous game device I which the prize zones are variable between games. *See col. 1:5-2:5.* In view of Peters, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ugawa to add the feature of varying the number and position of the prize zones is from game to game and thereby make the game more interesting for returning players.

Claim 53. Peters discloses a bonus condition awarding extra balls to drop in the base game. *See col. 6:41-45.*

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ugawa in view of Peters, as applied to claim 19 above, in further view of Tastad, U.S. 5,194,094 (Sep. 22, 1992).

Claim 20. The game device suggested by Ugawa in view of Peters does not disclose having the number and position of the prize zones are selectable by a player. Regardless, Tastad discloses an analogous game device in which game features are selectable by a player. *See col. 1:33-67.* In view of Tastad, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the game device suggested by Ugawa in view of Peters, wherein the number and position of prize zones varies form game to game, to add the features of having the number and position of the prize zones

Art Unit: 3714

are selectable by a player. As suggested by Tastad, the modification would enhance the device by giving a player greater control and variety, and thereby make the game more attractive to potential players. *See id.*

Claims 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ugawa in view of Eriko et al., JP 09-103,541 (Apr. 1997).

Ugawa does not disclose the feature of the game being a keno game or bingo game. Eriko discloses an similar game device priding a keno/bingo type game in combination with a pachinko game. Keno and bingo games are recognized in the art as games of chance substitutable for other games of chance, including spinning reel games, wherein the random outcome is selected from a set of possible outcomes to generate an award. Thus, in view of Eriko, it would have been an obvious design choice to modify Ugawa to substitute the feature of a bingo or keno game for the spinning reel game to achieve the same purpose of the randomly selecting a game outcome from a set of possible outcomes to generate an award.

Claims 56 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ugawa in view of Adams, U.S. 5,882,261 (Mar. 16, 1999).

Claim 56. Ugawa does not disclose the feature of a wheel activated by a ball or other means to provide a multiplier, bonus or trigger determined by the stopping position of the wheel. Adams discloses an analogous game device having a slot game and pachinko game in which a wheel is activated to provide a multiplier. *See abstract.; col. 1:58-2:13.* In view of Adams, it would have been obvious to an artisan to modify the game device described by Ugawa to add the features of a wheel activated by a ball or other means to provide a multiplier, bonus or trigger determined by the stopping position of the wheel. As

Art Unit: 3714

suggested by Adams, the modifications would make the game more appealing to players by providing them additional opportunities for winning payouts. *See col. 1:39-44.*

Claim 57. Adams discloses a wheel is divided into a plurality of wheel segments with one symbol or prize indicia indicated or displayed in each segment. *See col. 1:58-2:13.*

Claims 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ugawa in view of Adams, as applied to claim 56 above, in further view of Bennett, U.S. 5,085,436 (Feb. 4, 1992).

Claim 58. The game device suggested by Ugawa in view of Adams does not disclose new prize indicia selected and displayed on the respective wheel segments at the commencement of each main game. Regardless, Bennett discloses an analogous game device in which new prize indicia are selected and displayed on reel segments at the commencement of each game. *See fig. 2-8, col. 1:5-15.* Reels are equivalent to wheels because both are spinning indicators used to generate random outcomes for game devices. Reels differ only in that they display indicia on their edge rather than their face. Thus, in view of Bennett, it would have been obvious to an artisan at the time of the invention to modify the game device suggested by Ugawa in view of Adams, wherein outcomes are generated on a wheel, to add the feature of selecting and displaying new prize indicia on the respective wheel segments at the commencement of each main game. As suggested by Bennett, changing indicia allows a game device to offer larger awards by controlling the probabilities without changing the size of the wheel and thereby make the device more attractive to potential players.

Art Unit: 3714

Claims 59 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ugawa in view of Adams, as applied to claim 56 above, in further view of Heinen et al. DE 3638100 A (May 11, 1998).

Claim 59. The game device suggested by Ugawa in view of Adams does not disclose a central portion of a wheel which carries symbols and indicators around the periphery of the wheel indicate rotation and a final stopping position. Regardless, Heinen discloses an game device having an analogous wheel in which central portion of a wheel which carries symbols and indicators around the periphery of the wheel indicate rotation and a final stopping position. *See abstract.* The wheel disclosed by Heinen is recognized in the art as substitute for the wheel disclosed for the same purpose of indicating random game outcomes. Thus, in view of Heinen, it would have been an obvious design choice for one of ordinary skill in the art at the time of the invention to modify the game device suggested by Ugawa in view of Adams, wherein a spinning wheel indicates game outcomes, to substitute the wheel disclosed by Heinen to indicate game outcome.

Claim 60. Heinen discloses a series of virtual lights are provided around the wheel image such that rotation is indicated by lighting the lights in sequence such that the illuminated lights change in a rotating pattern, and after rotation of the pattern stops, a light is left illuminated adjacent to one wheel segment to indicate the prize indicia or symbol carried on that segment as the selected symbol or prize. *See abstract.*

Allowable Subject Matter

Claims 21-33, 41 and 54 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and

Art Unit: 3714

any intervening claims. The reasons for indicating allowable subject matter for the listed claims are discussed below.

Claims 21-33. In combination with the limitations of the claims upon which claim 21 depends, the prior art does not teach or suggest a gaming device including a pachinko game wherein the number and position of the prize zones are selected as a result of the size of a bet wagered by the player on the particular game. Thus claim 21 is allowable. Claims 22-33 inherit allowability from claim 21.

Claim 41. In combination with the limitations of the claims upon which claim 41 depends, the prior art does not teach or suggest a gaming device wherein a wheel replaces a prize container such that where as a ball drops through the chocolate wheel, it will spin and pay the prize that is spun up.

Claim 54. In combination with the limitations of the claims upon which claim 54 depends, the prior art does not teach or suggest a gaming device wherein a bonus condition causes a change in the game structure for future games.

Response to Arguments

Applicant's arguments with respect to claims 1-61 have been considered but are moot in view of the new grounds of rejection. The examiner notes that the applications amendment dated January 15, 2003 broadened the scope of claim 1 by eliminating a limitation. *See p. 21, lines 6-7*. As a result the applicants arguments on page 14 directed at Ugawa are moot.

Art Unit: 3714

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Ashburn whose telephone number is 703 305 3543. The examiner can normally be reached on Monday thru Friday, 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

s.a.

A handwritten signature in black ink, appearing to read 'MS', with a long horizontal flourish extending to the right.

MARK SAGER
PRIMARY EXAMINER